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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 CECILIO BADILLO,

12 Plaintiff,

13 v.

14 COMMISSIONER OF SOCIAL SECURITY,

15 Defendant.  
16  
17

Case No. 1:20-cv-00393-SAB

ORDER DENYING APPLICATION TO  
PROCEED *IN FORMA PAUPERIS*  
WITHOUT PREJUDICE AND REQUIRING  
PLAINTIFF TO FILE LONG FORM  
APPLICATION

(ECF No. 2)

TWENTY DAY DEADLINE

18 Cecilio Badillo (“Plaintiff”) filed a complaint in this action seeking review of the final  
19 decision of the Commissioner of Social Security denying disability benefits. (ECF No. 1.)  
20 Plaintiff did not pay the filing fee in this action and instead filed an application to proceed *in*  
21 *forma pauperis* pursuant to 28 U.S.C. § 1915. However, Plaintiff’s application does not provide  
22 sufficient information for the Court to determine if he is entitled to proceed in this action without  
23 prepayment of fees.

24 In order to proceed in court without prepayment of the filing fee, Plaintiff must submit an  
25 affidavit demonstrating that he “is unable to pay such fees or give security therefor.” 28 U.S.C.  
26 § 1915(a)(1). In assessing whether a certain income level meets the poverty threshold under  
27 Section 1915(a)(1), courts look to the federal poverty guidelines developed each year by the  
28 Department of Health and Human Services. See, e.g., Lint v. City of Boise, No. CV09-72-S-

1 EJL, 2009 WL 1149442, at \*2 (D. Idaho Apr. 28, 2009) (and cases cited therein).

2 The 2020 Poverty Guidelines for the 48 contiguous states for a household of three is  
3 \$21,720.00. 2020 Poverty Guidelines, <https://aspe.hhs.gov/poverty-guidelines> (last visited  
4 March 18, 2020). Plaintiff's application states that his wife makes \$2,000.00, his adult son helps  
5 them pay their mortgage and he has a twelve year old son who is dependent upon him for  
6 support. Plaintiff's application shows that his household income is over \$24,000.00 and does not  
7 demonstrate that he is entitled to proceed without prepayment of fees in this action.

8 Accordingly, the Court will order Plaintiff to complete and file an Application to Proceed  
9 in District Court Without Prepaying Fees or Costs (Long Form) – AO 239. If Plaintiff is  
10 unwilling to complete and submit the long form application, Plaintiff must pay the filing fee in  
11 full.

12 Based upon the foregoing, it is HEREBY ORDERED that:

- 13 1. Plaintiff's application to proceed in forma pauperis is DENIED without prejudice;
- 14 2. The Clerk of the Court is directed to forward an Application to Proceed in District  
15 Court Without Prepaying Fees or Costs (Long Form) – AO 239 to Plaintiff;
- 16 3. Within **twenty (20) days** of the date of this order, Plaintiff shall either (1) pay the  
17 \$400.00 filing fee for this action, or (2) complete and file the enclosed  
18 Application to Proceed in District Court Without Prepaying Fees or Costs (Long  
19 Form) – AO 239; and
- 20 4. If Plaintiff fails to comply with this order, this action shall be dismissed for failure  
21 to pay the filing fee and failure to comply with a court order.

22 IT IS SO ORDERED.

23 Dated: **March 24, 2020**

24   
25 UNITED STATES MAGISTRATE JUDGE  
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27  
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